

AFARS - APPENDIX FF

DEPARTMENT OF THE ARMY

PLAN FOR CONTROL OF NONSTANDARD CLAUSES

September 3, 2014

1. *PURPOSE.* The purpose of this plan is to implement, maintain, and comply with a plan for controlling the use of clauses other than those prescribed in the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS) as required in DFARS 201.304(4). This plan supersedes the July 31, 2009, update.

2. *DEFINITIONS.*

1. Clause - The term "clause" includes solicitation provisions and means a term or condition of the type set forth in FAR part 52 and DFARS part 252.
2. Deviation - The term "deviation" includes any clause that is inconsistent with the FAR or

DFARS.

1. Regulation - The term "regulation" includes any contracting supplement, policy letter, clause book, automated system, acquisition instruction (AI), or similar regulatory instrument.

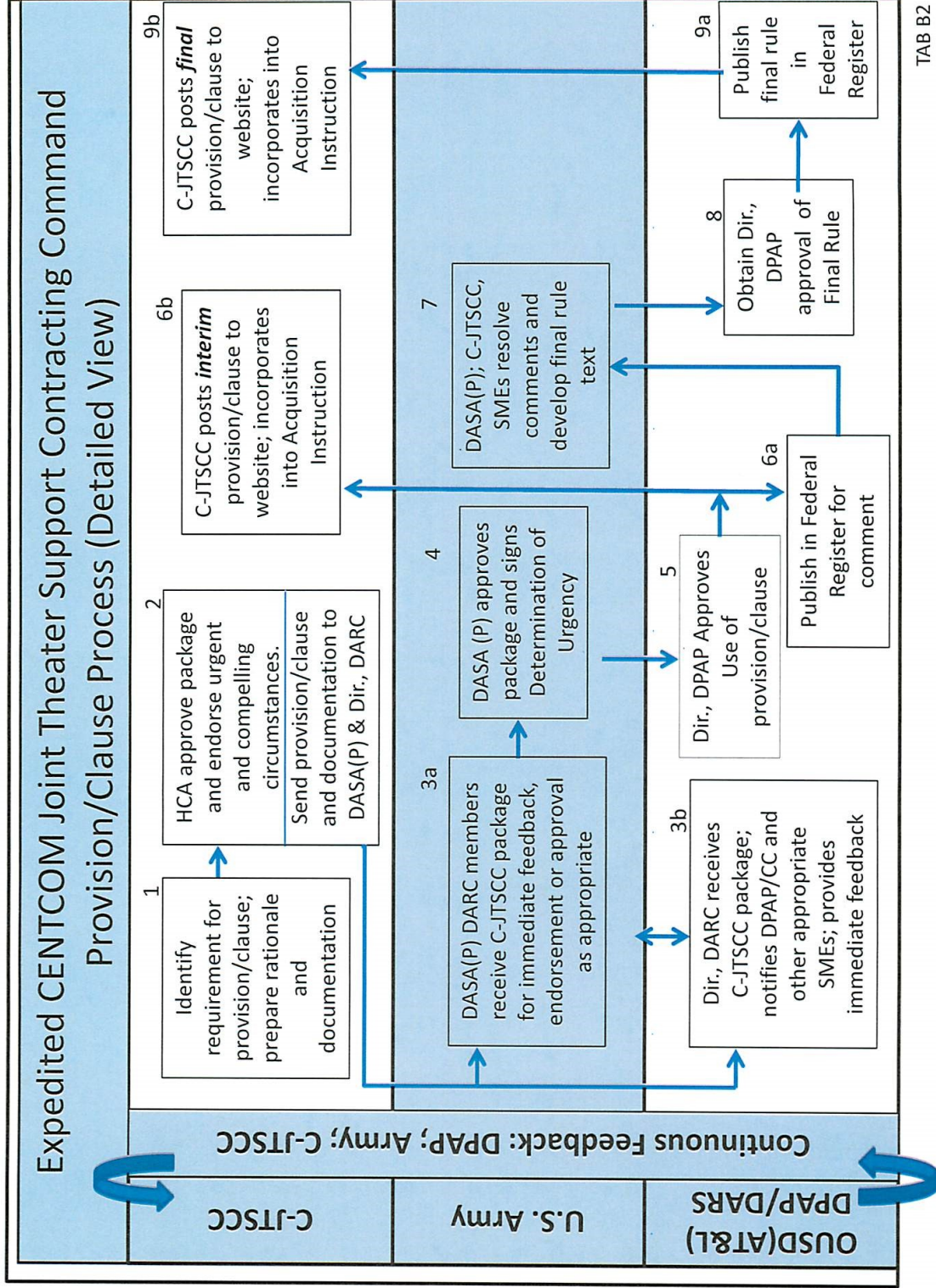
1. *REVIEW AND APPROVAL OF NONSTANDARD CLAUSES.* Army contracting activities

coordinate all nonstandard clauses with the Office of the Deputy Assistant Secretary of the Army

(Procurement) (ODASA(P)) Policy and Programs Directorate in accordance with Army Federal

Acquisition Regulation Supplement (AFARS) 5101.304(1)(i). The ODASA(P) Policy and Programs Directorate coordinates with the Office of the Army General Counsel during review of nonstandard clauses.

1. Director of Defense Procurement and Acquisition Policy (DPAP) Clause Approval -
 1. Obtain DPAP approval to use clauses that have a significant effect beyond the internal operating procedures of the Army or impose a significant cost or administrative impact on contractors or offerors (DFARS 201.304(1)). Included are class deviations from the FAR or DFARS (DFARS 201.404(b)) and the six categories of individual deviations set forth in DFARS 201.402(1).
 2. Coordinate with the ODASA(P) Policy and Programs Directorate to publish clauses requiring DPAP approval in the *Federal Register*, conduct analysis to ensure compliance with the Paperwork Reduction Act and the Regulatory Flexibility Act (FAR 1.301(c)), and analyze public comments. Submit the clause and all analysis through the Defense Acquisition Regulations (DAR) Council Director (DFARS 201.304(5) and AFARS 5101.301(b)).
2. Other than DPAP Clause Approval -
 1. Obtain Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) approval to use clauses that do not require DPAP approval and do not require publication in the *Federal Register* for public comment, but are included in contracting activity AIs or clause books.



[C-JTSCC LETTERHEAD]

In rely refer to
[Clause Title and number]

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)

SUBJECT: DETERMINATION OF URGENCY

I have determined that the following urgent and compelling reasons exist to publish this clause prior to affording the public an opportunity to comment.

[Insert a factual description of the urgent and compelling circumstances that justify this action, for example: The current changing threat environment, such as X and Y/circumstances relating to demobilization or X and Y/challenges requiring immediate action to avoid harm including A and B].

This clause [resolves the situation by accomplishing X and Y/provides necessary guidance/clarifies existing guidance/to ensure that X and Y do not occur]. Furthermore, it clarifies that [insert descriptive language].

Public comment will be obtained by publication of this clause in the Federal Register.

[Insert name]
Head of Contracting Activity
CENTCOM – Joint Theater Support
Contracting Command

SAAL-ZP

[Insert date]

Pursuant to 41 U.S.C. 1707 and based upon the facts presented above, I have determined that urgent and compelling circumstances exist that require publishing this clause prior to affording the public an opportunity to comment. I am, therefore, authorizing issuance of this clause for immediate use.

Harry P. Hallock
Deputy Assistant Secretary
of the Army (Procurement)

[C-JTSCC LETTERHEAD]

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[Clause Title and number]

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This clause [resolves the situation by accomplishing X and Y/provides necessary guidance/clarifies existing guidance/to ensure that X and Y do not occur]. Furthermore, it clarifies that [insert descriptive language].

Public comment will be obtained by publication of this clause in the Federal Register.

[Insert name]
Head of Contracting Activity
CENTCOM – Joint Theater Support
Contracting Command

SAAL-ZP

[Insert date]

Pursuant to 41 U.S.C. 1707 and based upon the facts presented above, I have determined that urgent and compelling circumstances exist that require publishing this clause prior to affording the public an opportunity to comment. I am, therefore, authorizing issuance of this clause for immediate use.

Harry P. Hallock
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